IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Crl. W.P. No. 1060 of 2007
Date of decision: November 13, 2007

Deepak

..... Petitioner

Versus

State of Haryana

..... Respondent

Present: None for the petitioner.

Mr. Amit Khatkar, AAG, Haryana.

S.S.SARON, J. (ORAL)

A telegram from Deepak son of Leela resident of Pema Khera, Tehsil Punhana was received which has been treated as criminal writ petition. It is alleged by the petitioner-Deepak that his son Azim and his brother-in-law Sahun resident of Ghagas have been lifted by the Police of CIA Sohna on 12.09.2007 at about 7.00 P.M. from a Hotel at Nuh while they were eating their meal. They are in illegal confinement of CIA Police Sohna. Umar SI and Umar HC of CIA Sohna had also beaten Azim son of the petitioner-Deepak and broken his leg.

Reply has been filed by way of affidavit of Baghwan Dass-Inspector, CIA, III, Sohna. It is submitted that Azim and Sahun were never arrested or confined in custody on 12.09.2007 at 7.00 P.M. as alleged in the Telegram. As a matter of fact, on the intervening night of 14/15.09.2007 at about 4.00 A.M. ASI Umar Mohammad along with ASI Gian Chand and other

police officials were present near Tourism Complex, Sohna Tauru Road in a government vehicle in connection with patrolling. When Aziz son of Usman Khan contacted ASI Umar Mohammed and was talking with him, in the meantime, a secret information was received that Azim r/o Pema Khera along with three companions who were in the habit of looting trucks and other vehicles were standing at the top of a Mosque and were planning to loot the passing vehicles. In case, a raid was conducted, they could be apprehended with arms. ASI Umar Mohammed directed all the Police officials for a raid at the disclosed place. The Police party along with the witness Aziz started following a truck with the light of their official vehicle switched off. The party reached the place, where the four boys were attempting to loot. When the truck reached near the Mosque, the four boys all of a sudden appeared on the road and attempted to stop the truck. The truck driver accelerated the speed of his truck and was able to flee away. On seeing the vehicle of the police, the four attempted to run away. One of the boys jumped on the stones, but was apprehended by ASI Umar Mohd. He was found in possession of a country made .32 bore sixer revolver. On enquiry, he disclosed his name as Azim son of Dalpat. Because of the jump taken by him, he received injuries on his right foot and wrist of left hand, as a result of which, he was not able to move. The other police officials namely EHC Umar Mohd. and Constable Kamal Singh were able to nab a person who disclosed his name as Sahun son of Hamida. He was found in possession of an iron Saria. EHC Vijender Singh and EHC Yakub Khan were able to apprehend another person, who disclosed his name as Habib son of Umar Mohd. He was also found in possession of an iron rod. Constable Mahmood Khan and Constable Umar Mohd. apprehended Lala son of Ram Bir. He was in possession of a torch light. All the articles

that were recovered were sealed in parcels and taken into possession.

On the basis of the above facts, the case FIR No.328 dated 15.02.2007 was registered at Police Station Sohna for the offences under Sections 398 and 401 IPC as also Section 25 of the Arms Act. All the accused were apprehended at the spot and produced before the Ilaqua Magistrate on 15.09.2007. It is submitted that Azim is a habitual offender and there are other cases registered against him as mentioned in Para 5 of the reply.

Keeping in view the fact that at the time of filing the reply, the petitioners are in valid custody under the orders of a Judicial Magistrate, no writ in the nature of Habeas Corpus is liable to be issued as held in **Talib Hussain v. State of Jammu and Kashmir**, (1971) AIR SC 62.

In the circumstances, the criminal writ petition is dismissed.

(S.S. SARON)
JUDGE

November 13, 2007
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